

Project: Petersen Ranch Mitigation Bank					Color Codes		Comment Status Codes A - Resolved, Change incorporated B - Resolution pending C - Change not made. D - Information Only
Consultant: WRA Project Manager: Nate Bello					Braiden Chadwick to address with individual agency Legal counsels.		
Date: Oct 2015							
Review Item:		BEI Package					
No	Comment By	Page/ Fig.	Responsible	Review Comment	Response	Comment Status Code	Notes
BEI							
1	CDFW, David Lawhead	Section IV.E		[re: subsequent phases] This section should reference and exhibit that shows the different portions of the bank to be incrementally brought into the bank, and also lists the lettered areas to be brought inot the bank in Phase 1, 2, etc.	Language has been added referencing Exhibit A as showing the location of all phases areas. No language was added regarding the sequencing of the phases since that is currently unknown.	A	
2	CDFW, David Lawhead	Section VII, 1st paragraph		Should note that these credit release schedules are for each bank phase dedicated to the bank. The credit release schedule for each phase is independent of the other phases.	Added clarifying language to this section.	A	
3	CDFW, David Lawhead	Section VII.C.2		[re: preservation credit release] No Performance Standards required for Preservation Credits	Language related to performance standards has been removed	A	
4	CDFW, David Lawhead	Section VIII.E.3		[re: financial records and auditing] What is the purpose of this new language. Unnecessary.	This language was added at the request of the Corps. See comment #74 from the 8-17-14 comment matrix: "[re: BEI-Section VIII.E.3] What records are anticipated? Please list. For the crediting ledger, please cite required/appropriate template. "	A	
5	CDFW, David Lawhead	Section XII.E		[re: default] [Inserted] "...the IRT will identify the appropriate action(s) to be taken and the appropriate schedule for taking such actions; the IRT will notify the Property Owner and Bank Sponsor of its determination. These actions may include, but are not limited to, suspending Credit Transfers, adaptive management, reducing available Credits, utilizing financial assurances, and terminating the instrument. The IRT may confer with the Bank Sponsor and/or Property Owner prior to making its determination. The Bank Sponsor or Property Owner, as identified by the IRT, will carry out the specified action(s) on the schedule specified by the IRT." [Deleted] "...the Parties may elect to either pursue informal dispute resolution consistent with Section XII.B or may cause the holder to draw upon and expend the appropriate financial security as necessary to continue Bank development, management, or operation, as provided in Section VI and VIII.E."	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
6	CDFW, David Lawhead	Section XII.P		[Inserted] "Among the Bank Sponsor, Property Owner and the Federal agencies, the applicable statutes, regulations, policies, directives, and procedures of the United States will govern this BEI and all documents and actions pursuant to it. Among the Bank Sponsor, Property Owner and State of California agencies, this BEI shall be governed by and construed according to the applicable laws, statutes, regulations, orders, policies and requirements of the State of California and its agencies with jurisdiction, including without limitation the authorities identified in Section I.B of this BEI as applicable." [Deleted] "This BEI shall be governed by and construed in accordance with the Clean Water Act, 33USC 1251 et. seq., the laws of the State of California, including but not limited to the Fish and Game Code, Porter-Cologne Water Quality Control Act, and other applicable federal and State of California laws and regulations."	Changes have been accepted.	A	
7	CDFW, David Lawhead	Section XII.Q&R		USACE approval of this BEI constitutes a regulatory approval required for the Bank to be used to provide compensatory mitigation for Department of the Army permits pursuant to 33 C.P.R. 332.8(a)(1). This BEI is not a contract between the Bank Sponsor or Property Owner and USACE or any other agency of the federal government. Any dispute arising under this BEI will not give rise to any claim by the Sponsor or Property Owner for monetary damages. This provision is controlling notwithstanding any other provision or statement in the BEI to the contrary. R. CDFW Remedies CDFW is entering into this BEI in its own right and not as the agent or representative of any other entity, including without limitation the IRT or any other member of the IRT. If CDFW defaults in the performance of any of its obligations under this BEI, Bank Sponsor and Property Owner will have the right to seek, subject to the limitations set forth below, damages or specific performance as provided by law as the exclusive remedy for such defaults. Despite the foregoing, Bank Sponsor and Property Owner each hereby waives: (a) Any right to receive consequential or punitive damages against CDFW or any officer, employee, agent or representative of CDFW; and (b) Any right to seek specific performance against CDFW based on a dispute relating to any CDFW decisions, made either independently or as a member of the IRT, directly related to Credits for Covered Species and Covered Habitat creation or preservation under the jurisdiction of CDFW, including but not limited to decisions under Sections VII.C (Covered Species and Covered Habitat Credit Release), VIII.B (Transfer of Credits), and XII.A.5 (Force Majeure) of this BEI. This waiver shall not preclude Bank Sponsor or Property Owner from the recovery of any compensatory damages directly related to CDFW decisions regarding Credits for Covered Species and Covered Habitat creation or preservation provided for in the BEI, which Credits are under the sole jurisdiction of CDFW. Recovery of damages due to a default by CDFW will only be available after CDFW and the Bank Owner or Property Owner have undergone informal dispute resolution as specified in Section XII.B of this BEI."	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
8	Lahontan RWQCB	General		Minor track changes	All minor track changes were accepted; any substantial changes were pulled out as separate comments and addressed individually.	B	
9	Lahontan RWQCB	Section II		[re: Definitions] IRT and Signatory Agencies should be defined	LA RWQCB has been removed from the list of IRT members as they have not been actively involved. With this change the IRT and Signatory Agencies would be the same. Language throughout template has been modified to reference only IRT.	A	
10	Lahontan RWQCB	Section III C.2		See comments on Exhibit B	See response to specific comments in exhibits sections of this matrix.	A	
11	Lahontan RWQCB	Section III C.3		See comments on Exhibit C, Draft Development Plan	See response to specific comments in exhibits sections of this matrix.	A	
12	Lahontan RWQCB	Section III C.6		See comments on Exhibit F	See response to specific comments in exhibits sections of this matrix.	A	

13	Lahontan RWQCB	Section III C.9		I never realized that the Corps determined that the features tributary to the Amargosa Creek with an OWHM “could” receive credit. What does this mean? Are these features 404 jurisdictional? What is meant by “could?” Are these potentially creditable features included and accounted for in Exhibit C and Exhibit F?	These features are not 404 jurisdictional, however the Corps has indicated that 404 credits will still be issued for these areas. These areas have been accounted for in all credit figures, tables and text.	D	
14	Lahontan RWQCB	Section III C.11		The zipped folder (us_eco_14_state_boundaries) in Exhibit K does not open. Please provide.	This file was unintentionally included in the last BEI submittal. It has been removed from Exhibit K.	A	
15	Lahontan RWQCB	Section IV A		In general - each agency should just review those parts of the bank/credits over which they have jurisdiction.	Template Language. Change not made.	C	
16	Lahontan RWQCB	Section IV E		[re: "Establishment of each phase must be approved in writing by the Signatory Agencies."] Lahontan would prefer to only participate in those phases located either partially or exclusively within the Antelope-Fremont watershed. We do not have jurisdiction in the Santa Clara watershed.	Template Language. Change not made.	C	
17	Lahontan RWQCB	Section IV F		[re: Modifications of the development plan] Lahontan would prefer to only participate in those changes that would apply to those portions of the bank within the Antelope-Fremont watershed where we have jurisdiction.	Template Language. Change not made.	C	
18	Lahontan RWQCB	Section VI B		[re: Performance Security] Each agency should only be responsible for assessing whether standards/actions related to their credits are addressed.	Template Language. Change not made.	C	
19	Lahontan RWQCB	Section VI D		[re: Multiagency Project Delivery Team] Term is not defined.	This term is defined in the 2011 8-party MOU regarding mitigation banking in California. Clarifying language added.	A	
20	Lahontan RWQCB	Section VI D		[re: Approval of casualty insurance policy by Signatory Agencies] This should really just be done by the Corps. It may be more appropriate in most circumstances to just have a consultation with affected agencies, and then have Corps take the final action.	2011 MOU defined responsibility. Change not made.	C	
21	Lahontan RWQCB	Section VII		[re: "Each credit release must be approved in writing by the Bank Sponsor and must be approved in writing by the IRT agency(ies) under whose jurisdiction the Credits reside."] Does this sentence mean that Lahontan will only approve credit releases in the portion of the bank within the Antelope-Fremont watershed (i.e. only in those areas where we have jurisdiction)?	Yes. Only the agency who has jurisdiction over the credits being released needs to provide approval.	D	
22	Lahontan RWQCB	Section VII A		[re: Waters of the State (Porter-Cologne)] Porter-Cologne Credits should be defined. I would actually prefer if these were called credits for impacts to “Waters of the State” – and a different term, such as “Streambed Alteration Mitigation credits” was used for Fish and Game. State Water Board regulates “waters of the state”	To address this comment and to be consistent with all of the BEI Exhibits all credit references in the BEI Template have been changed to match the Exhibits: 404 credits, Porter Cologne Credits and 1600 Credits.	A	
23	Lahontan RWQCB	Section VII A.1		[re: Waters of the U.S. and Waters of State credit releases] Might want to consider separating out Lahontan's Waters of the State (Porter-Cologne) Credits, as these are limited to only those areas within the Antelope-Fremont watershed. As is, this section is very confusing.	A new section has been added to separate out Porter-Cologne Credits.	A	
24	Lahontan RWQCB	Section VII A.1		[re: use of term “Waters of the State (Porter-Cologne)"] Suggest making this global change for consistency with Waters of the State (1600) Credits.	See response to comment #21	A	
25	Lahontan RWQCB	Section VII A.1		[re: Lahontan RWQCB entering credits released into RIBITS] How would this work? What is the work expectation for Water Board staff? Conflicts with section XI.D.2 below.	See response to section #23. The new section excluded this language.	A	
26	Lahontan RWQCB	Section VII A.1.b		[re: Waters of the U.S. and Waters of the State credit release 2] Porter-Cologne credits are only within the Antelope-Fremont watershed.	Correct. This section only lists the requirements of each credit release for each credit category, it does not pertain to watersheds or the location of credits.	D	
27	Lahontan RWQCB	Section VII A.1.c		[re: Waters of the U.S. and Waters of the State credit release 3] Porter-Cologne credits are only within the Antelope-Fremont watershed.	See response to comment #26	C	
28	Lahontan RWQCB	Section VII A.1.c		Similarly, it does not appear that all waters of the State will be Waters of the US (See Table 1 and 4 in Ex. F). Lahontan should only be making determinations as to Waters of the State	Correct. No change required.	D	
29	Lahontan RWQCB	Section VII A.1.d		[re: Waters of the U.S. and Waters of the State credit release 4] Porter-Cologne credits are only within the Antelope-Fremont watershed.	See response to comment #26	C	
30	Lahontan RWQCB	Section VII A.1.e		[re: Waters of the U.S. and Waters of the State credit release 5] Porter-Cologne credits are only within the Antelope-Fremont watershed.	See response to comment #26	C	
31	Lahontan RWQCB	Section VII A.2		[re: credit releases being contingent on submittal of annual mitigation and monitoring report] Porter-Cologne credits are only within the Antelope-Fremont watershed.	See response to comment #26	C	
32	Lahontan RWQCB	Section VII A.3		[re: credit releases related to unapproved development plan modifications or failure to meet performance standards] Porter-Cologne credits are only within the Antelope-Fremont watershed.	See response to comment #26	C	
33	Lahontan RWQCB	Section VII C.3.1		[re: "Credits for 404, Porter Cologne, 1600, Covered Species, and Covered Habitat shall be determined and released as described in this Section VII. B and the Credit Table (Exhibit F-1)."] Why VII.B - which is for 1600 Non-Preservation? Why not just set forth below?	See response to comment #22.	A	
34	Lahontan RWQCB	Section VII C.3.2		[re: which agency(ies) release(s) credits] One agency should be charged with releasing credits, in consultation with the appropriate agency who has jurisdiction over the credits.	Template Language. Change not made.	C	
35	Lahontan RWQCB	Section VIII B.2		[re: the term obligated in sentence "In no case shall the number of Credits of any particular type Transferred or obligated..."] How is this different from Transferred? Should it also be defined?	Template Language. Change not made.	C	
36	Lahontan RWQCB	Section VIII B.6		[re: "Each Credit Transfer shall be made pursuant to a written purchase agreement in the form of Exhibit F-2."] The Porter-Cologne credits are lumped in with the 404 credits, not all Porter-Cologne credits are also 404 credits, and Porter-Cologne credits are only in the Antelope/Fremont watershed. Suggest listing Lahontan's Porter-Cologne credits separately and then reference in that discussion that some Porter-Cologne credits are also creditable under 404. Lahontan's jurisdiction is only within those portions of the bank in the Antelope-Fremont watershed, this needs to be made clear in the BEI and all exhibits. We do not have authority outside our regional board boundary and would not accept mitigation credits in the Santa Clara watershed as mitigation for projects in the Antelope-Fremont watershed, as is implied in the BEI.	Unclear as to what this comment is referring to. This section and the referenced exhibit do not list credits or make any claim to jurisdictional boundaries or use of credits. Exhibit F-1 section 2.3 lists the Porter Cologne credits separately and distinctly indicates that they are only within the Antelope-Fremont watershed as referenced in this comment. Additionally the Development plan section 4.1.3 describes Porter Cologne credits as being located in the Antelope fremont watershed and all relevant sections of the Development Plan list Porter Cologne credits separate from the other types. Porter Cologne credits are not "lumped" with the 404 credits anywhere in the BEI text, figures or credit tables.	C	
37	Lahontan RWQCB	Section VIII B.7		See comment on section VIII B.6 above.	See Response to comment #36	C	
38	Lahontan RWQCB	Section VIII B.8		[re: "Permitting Agency"] Not defined	Template Language. Change not made.	C	
39	Lahontan RWQCB	Section VIII B.8		[re: Reservation agreements] Define?	Template Language. Change not made.	C	
40	Lahontan RWQCB	Section VIII D 2.b.2		[re "...and the Signatory Agencies provide written approval of the closure..."] Should this just be the Corps to make that determination. Lahontan won't necessarily know if Bank Sponsor has met all their obligations, especially as it relates to the jurisdiction of other agencies.	Template Language. Change not made.	C	
41	Lahontan RWQCB	Section VIII E.1.a.1		[re: authority to draw upon construction security] Does Lahontan also have authority to draw upon the Construction Security?	Yes. Lahontan RWQCB does have the authority to draw upon the Construction Security. This change has made to the text.	A	
42	Lahontan RWQCB	Section VIII E.1.a.2		[re: the term "coordination" in the sentence - "The Construction Security shall be released to the Bank Sponsor by USACE, in coordination..."] Consultation is more appropriate	Template Language. Change not made.	C	

43	Lahontan RWQCB	Section VIII E.2.b.5		[re: use of term "coordination"; course of action if insufficient funding in the Endowment Fund] One approval with consultation in better	Template Language. Change not made.	C	
44	Lahontan RWQCB	Section VIII E.3		[re: who review audits] The Corps should commit to reviewing the audit.	Template Language. Change not made.	C	
45	Lahontan RWQCB	Section VIII F		[re: Remedial Action Plan] The Corps should be in charge of ensuring performance standards are met and other adverse conditions are addressed before closure. Concern is that no one will review.	Template Language. Change not made.	C	
46	Lahontan RWQCB	Section VIII F.1		[re: the use of term "coordination"; Remedial Action Plan] One approval with consultation	Template Language. Change not made.	C	
47	Lahontan RWQCB	Section VIII F.2		[Re: If the Signatory Agencies, in coordination with the other members of the IRT, determine that the Bank is operating at a Credit deficit..."] One agency needs to be in charge of oversight.	Template Language. Change not made.	C	
48	Lahontan RWQCB	Section IX B		[re: IRT reviewing annual reports] But one agency should be committing to review	Template Language. Change not made.	C	
49	Lahontan RWQCB	Section IX D.1		[re: approval of compliance extension requests] Have one agency approve	Template Language. Change not made.	C	
50	Lahontan RWQCB	Section XI A		One agency needs to be the lead on oversight and ensuring compliance. Concern is if it fails to all, none may do it.	Template Language. Change not made.	C	
51	Lahontan RWQCB	Section XI C		[re: Compliance Inspections] Unsure of Lahontan's ability to commit to thorough review and compliance inspections.	Template Language. Change not made.	C	
52	Lahontan RWQCB	Section XI D.2		[re: inclusion of reference to Section VII A (which includes Porter-Cologne credits) under USACE-Specific Responsibilities] Also includes Porter-Cologne credits	A new section has been added specific to Lahontan Regional Board Responsibilities.	A	
53	Lahontan RWQCB	Section XI D.3		[re: USACE oversight of as-built conditions] Needs to take the lead on ensuring compliance.	Template Language. Change not made.	C	
54	Lahontan RWQCB	Section XI E.1		Porter-Cologne Credit releases are described in BEI section VII.A with USACE credit release criteria. Another reason why it would be good to separate 404 and Porter-Cologne credits in section VII above.	See response to comment #52	A	
55	Lahontan RWQCB	Section XII B		[re: Dispute resolution] What can happen during the dispute? Can credits be transferred? This process should provide more details.	Template Language. Change not made.	C	
56	Lahontan RWQCB	Section XII D		Parties v. Signatory Agencies V. IRT - are they all the same? If so, use one term consistently. If not, needs to be clearer how they differ.	See response to comment #9	A	
57	Lahontan RWQCB	Section XII D.3.e.2		[re: reference to sections XII B abd XIK] Are these references correct?	Template Language. Change not made.	C	
58	Lahontan RWQCB	Section XII K.3		Is LA Regional Board an IRT member but not a signatory?	See response to comment #9	A	
SERVICE AREA MAPS (EXHIBIT B-1)							
59	Lahontan RWQCB	Exhibit B 1.2		There are no Porter-Cologne alluvial floodplain credits see exhibit F 1.3.9	The language referring to alluvial floodplain credits has been removed.	A	
SERVICE AREAS DESCRIPTIONS (EXHIBIT B-2)							
60	Lahontan RWQCB	General		All track changes	All track changes were minor/non-substantial content changes. And thus have all been accepted.	A	
61	Lahontan RWQCB	Section 2.2		The revised JD shows many of these waters as "Additional Creditable Features." Does this mean that they are 404 jurisdictional? If so, then this need to be reworded. If not, then all of the maps need to be revised.	These areas are not 404 jurisdictional, but the Corps has indicated that they would issue credits for these areas anyway. The maps and wording are correct. No change needed	C	
DEVELOPMENT PLAN (EXHIBIT C-1)							
62	USACE, Shannon Pankratz	pg. 3, last paragraph		On page 3, at least a brief description of what the 1st phase in PR/EL entails should be clearly stated in the last paragraph;	An additional paragraph has been added to the Executive Summary and Section 1.0 to address this comment.	A	
63	USACE, Shannon Pankratz	Tables 20,28,32,35,39, and 43		Physical UPS's for re-establishment/rehabilitation shouldn't duplicate CRAM metrics, but rather use different UPS's in the UPS excel table;	The Corps Uniform Performance Standards include only 3 options for measuring Physical functions of Riverine systems, UPS (#1, 2 and 3). All three of these duplicate CRAM metrics to some degree. We have selected UPS #2 as the least similar to a metric measured by CRAM as this UPS includes specific assessment of stream geomorphology specific to the target resource type.	C	
64	USACE, Shannon Pankratz	General		All tables using uniform re-establishment credits "ratio conversion" should have table footnotes stating as such, especially for the different listed mitigation types;	These changes have been made.	A	
65	USACE, Shannon Pankratz	Section 6.3.2		Re-label Section 6.3.2 title, as well as all tables in this section, as applicable to pond *and* wetland restoration sites;	The text has been reviewed to ensure that all sections discussing both pond and wetland restoration sites accurately refer to both aquatic resources.	A	
66	USACE, Shannon Pankratz	Section 1.4.4		Page 121, shouldn't the 1.4.4 title include "buffer"? And how is the section 1.4.4 any different from section 1.4.5? Revise as appropriate;	"Non-wetland Riparian" is term that is used consistently throughout the Bank documents to describe 1600 jurisdictional riparian habitats regulated by CDFW. "Riparian Buffer" is a term that is used consistently throughout the Bank documents to describe non-wetland habitats that support wetland/riparian species that generate Buffer credits under 404 of the CWA. These areas overlap in many places but in some cases are distinct, and as such are described separately.	C	
67	USACE, Shannon Pankratz	Table 32		Restoration at Frakes Canyon/Edgewater should at least also have a hydrology UPS too, similar to other restoration UPS tables. Same should be applied to any other relevant restoration UPS tables;	The same Hydrology PS from Munz Canyon has been added to the performance standards for the Frakes Canyon and Edgewater Restoration Sites.	A	
68	USACE, Shannon Pankratz	Figure 63, Table 37		Page 150, text for the Turkey Tail area describes alluvial/upland buffer/riparian buffer. However, Figure 63 depicts more water types and credits. Moreover, table 37 only contains alluvial credits. Revise as appropriate;	The cited text and tables are correct in that the Turkey Tail restoration site only includes alluvial fan, riparian buffer and upland buffer re-establishment mitigation types, all of which are being converted to alluvial fan re-establishment uniform credit types. However the figure cited shows mitigation types for all of Area F, not just the Turkey Tail (Site 4) restoration site. This figure has been updated to provide clarity.	A	
69	USACE, Shannon Pankratz	Table 41		Page 157, same comment above applies to Table 41, for the Joey stream area. Table doesn't match text and figures, revise as appropriate;	Similar to our response for comment #68, the text and tables cited are correct. The Figures have been updated to provide more clarity as to which credit types are associated with which restoration sites.	A	
70	CDFW, David Lawhead	Section 1		[Insert in sentence where noted in track changes; re: how credits will be earned] "and the placement of conservation easements	This change has been made.	A	

71	CDFW, David Lawhead	Section 4.1.1.		Should this be "feet" instead of "meters?" If not, why the change of units? [re: 250 meter buffer distance from edge of perennial wetlands]	250 meters was chosen as the 404 buffer distance, because it is the standard buffer distance prescribed by CRAM. There are no CDFW buffer credits.	A	
72	CDFW, David Lawhead	Section 4.2		[re: sentence "...low-quality wetlands would not be creditable for wetland preservation by the Corps."] Are they creditable as "buffer?"	Yes, low-quality wetlands are credited as buffer for the Corps. There are no CDFW buffer credits.	A	
73	CDFW, David Lawhead	Table 4		[re: bare ground CEQA credit type] Not a CEQA credit	There have been CEQA documents for large projects in the bank's service area that listed mitigation requirements for all land cover types, regardless of vegetative composition. Whether these credit types are appropriate for use is determined by the permitting agency and if requirements for this credit type are never required, then they will never be sold. For these reasons we do not see any harm in allowing these credits.	C	
74	CDFW, David Lawhead	Table 4		[re: non-native woodland CEQA credit type] Not a CEQA credit	See response to comment #73	C	
75	CDFW, David Lawhead	Table 5		[re: freshwater marsh enhancement credits] If this area corresponds to the marsh along Elizabeth Lake, should be "preservation" not "enhancement"	In addition to permanent protection through the recordation of a CE, the Bank Sponsor has been managing these resources to control invasive species as these habitats and their watershed are recovering from the Powerhouse Fire. Post-fire management was discussed with the IRT as an enhancement measure in the Prospectus and in IRT meetings held in February 2015. In addition to the CE and post-fire management, the sponsor is installing exclusion fencing and supplemental water sources to keep cattle out of these aquatic resources plus a 35-foot setback to insure indirect impacts from grazing are avoided. While the site is not currently grazed, it has been grazed in the past and livestock can be returned to the property at any time. The importance of cattle exclusion from aquatic resources has been discussed at length with the IRT, largely in response to comments made by both CDFW and the Corps on the last submittal of the BEI. The Grazing Plan, Development Plan and Credit Evaluation describe the cattle exclusion and post-fire management of invasive species that justify enhancement.	C	
76	CDFW, David Lawhead	Table 5		[re: open water enhancement credits] Should be "preservation" for open water areas of Elizabeth Lake	See response to comment #75	C	
77	CDFW, David Lawhead	Section 5.3		[re: sentence: "A report detailing the hydrology studies in the Petersen Ranch Bank Property is included in Exhibit K of the BEI." Could not find this document with the recent revised documents sent for review, or from the original BEI submittal. Please provide.	All hydrologic studies have now been included in Exhibit K.	A	
78	CDFW, David Lawhead	Section 6.1.2, Hydrology Monitoring Methods		[re: sentence: Hydrology will be monitored in wetlands through the use of data loggers installed in shallow groundwater monitoring wells (UPS #23). Data loggers will record depth and duration of saturation or inundation at each well location. Manual observations to validate data will be conducted twice during the rainy season."] What about the need for an existing conditions assessment before restoration occurs to help guide the restoration design and provide a baseline for future monitoring? I still have not seen any data that shows groundwater levels within the proposed restoration area of Area A. This seems like a fundamental need for planning a restoration dependent upon groundwater.	Given the severe drought that California has been experiencing, there is limited groundwater data to use as a baseline for future monitoring, however, existing hydrologic conditions have been assessed in hydrologic reports included in Exhibit K. Additionally, wetland restoration is only being proposed for locations in which wetlands already occur and/or where manmade berms have been constructed in wetlands. The restoration actions are intended to restore the existing wetlands to their natural hydrologic state, not create new wetlands that would require additional hydrologic inputs.	A	
79	CDFW, David Lawhead	Section 6.1.2, pg. 44., Vegetation Monitoring Methods		[re: sentence: "This sampling method is based on a 50-meter by 2.5-meter belt plot (assessment occurs every 10 feet, and all species within 2.5 meters of the transect line are identified.") Seems rather odd that the transect lengths are in meters, but the sampling is every 10 feet. Is this correct?	Sampling has been changed to 3 meter intervals.	A	
80	CDFW, David Lawhead	Section 6.1.2, Vegetation Monitoring Methods		[re: sentence: "This sampling method is based on a 50-meter main transect bisecting the wetland planting area. Quadrats will be placed every ten feet along the main transect with the first quadrat located 1-10 feet, determined by a random number chart, from the wetland edge. Plant species and coverage will be measured using percent cover classes within a 0.5 meter squared quadrat ."] Again, an odd combination of units	See response to comment #79	A	
81	CDFW, David Lawhead	Section 9.2		[re: sentence: "Annual monitoring will assess the Bank's condition, degree of erosion, invasion of exotic or deleterious (e.g., thatch producing) species, water quality, fire hazard, and/or other aspects that may warrant management actions."] Should specifically call out Swainson's hawk monitoring, as this is a State-threatened species.	This change has been made.	A	
82	CDFW, David Lawhead	Section 1.2.1		[re: sentence: "Pole cuttings will be at least four feet in height and inserted into the ground at a depth suitable for the cutting to access water or saturated soils."] How is the depth to groundwater or soil saturation being determined?	See response to comment #78. Pole cuttings will be planted within existing wetland areas that are being restored and will be located primarily around the ponding line of small depressions in similar position as existing vegetation.	A	
83	CDFW, David Lawhead	Section 1.5.2		re: sentence: "...but will receive benefits from the restored hydrologic regime ..." Need a more clearly described groundwater monitoring program.	Groundwater depth will be measured according to methods describe in Section 6.1.2, pg. 43 of the Development Plan. Additional hydrologic information and past groundwater depths can be found in reports included in Exhibit K.	A	
84	CDFW, David Lawhead	Table 16		[re: hydrologic UPS] Describe specifically how this will be monitored.	See response to comment # 83	A	
85	CDFW, David Lawhead	Table 16		[re: UPS #28] This 3-step performance standard does not line up well with the 5-step credit release process.	This performance standard has been revised to a 5-step performance standard to address this comment.	A	
86	CDFW, David Lawhead	Table 20		[re: UPS #2 "The mitigation retains or increases stream stability and does not cause site, upstream, or downstream excessive erosion or aggradation. Specifically: Overall channel form should not indicate a consistent trajectory indicating a transition from a multi-thread to a single thread channel form."] How will this be assessed in the field?	The methods for monitoring this performance standard are detailed in the Hydrology Monitoring Methods portion of section 6.1.2 of Part I of the Development Plan	A	

87	CDFW, David Lawhead	Table 20		[re: UPS #28] Again, 3-step performance Standard versus a 5-step Credit Release.	See response to comment #85.	A	
88	CDFW, David Lawhead	Section 3.3		Every 5 years the vegetation map for Area A should be reviewed and revised if necessary based upon current field conditions (aerial photo). This is not to modify agreed upon credits, but to assess habitat changes or trends that may require management actions.	We do not feel that this is necessary as our tasks included in the LTMP will provide any information that would be gained from vegetation map updates. In the LTMP we have agreed to annual monitoring of the entire Bank Property to assess habitat quality, additionally, covered habitats and species will be monitored annually to also assess habitat quality, erosion, and invasive species.	C	
89	CDFW, David Lawhead	Table 21b		[re: bare ground CEQA credit type] Not a CEQA credit, no native habitat	See response to comment #73	C	
90	CDFW, David Lawhead	Table 21b		[re: non-native woodland CEQA credit type] Not a CEQA credit, no native habitat.	See response to comment #73	C	
91	CDFW, David Lawhead	Section 2.0		Review and update, if necessary, the vegetation map for Area B every 5 years (aerial photo).	See response to comment #88	C	
92	CDFW, David Lawhead	Table 22a		[re: bare ground CEQA credit type] Not a CEQA credit, no native habitat.	See response to comment #73	C	
93	CDFW, David Lawhead	Section 2.0		Review and update vegetation map of Area C every 5 years.	See response to comment #88	C	
94	CDFW, David Lawhead	Table 23b		[re: bare ground CEQA credit type] Not a CEQA credit, no native habitat.	See response to comment #73	C	
95	CDFW, David Lawhead	Section 2.2		Review and update vegetation map [of Area D] every 5 years	See response to comment #88	C	
96	CDFW, David Lawhead	Table 24b		[re: bare ground CEQA credit type] Bare ground is not a CEQA Credit	See response to comment #73	C	
97	CDFW, David Lawhead	Section 1.4.2		[re: Alluvial Floodplain Rehabilitation] Based upon the description in the Development Plan, it's hard to see what added functions are going to be generated on the upstream portion of the alluvial fan. This might more appropriately be classified as enhancement credits. A better description of increased functions is needed to justify "rehabilitation".	Text has been added to explain why the upstream portion of the alluvial fan is also being rehabilitated.	A	
98	CDFW, David Lawhead	Table 26		[re: Alluvial Floodplain Rehabilitation credits] Needs better justification.	See response to comment #97	A	
99	CDFW, David Lawhead	Table 28		[re: UPS #2 - "The mitigation retains or increases stream stability and does not cause site, upstream, or downstream excessive erosion or aggradation. Specifically: Overall channel form should not indicate a consistent trajectory indicating a transition from a multi-thread to a single thread channel form."] How will this be measured?	See response to comment #86	A	
100	CDFW, David Lawhead	Table 28		[re: UPS #28] 3-step Performance Standards, but 5-step credit release??	See response to comment #87	A	
101	CDFW, David Lawhead	Table 28, pg. 113		[re: UPS #28 - Year 5 and Final - "Cover of native species will be at least 50% absolute cover"] This standard does not assure that a significant portion of native species will be composed of shrubs. How do we assure a successful shrub community?	The plant palette includes several shrubs, including Salvia sp., that will make up a significant portion of the absolute cover. Furthermore, UPS #31 requires at least 14 species in the planting areas, which will include the shrubs included in Table 25.	C	
102	CDFW, David Lawhead	Section 2.1.2		[re: sentence: "Cattle will be excluded from the northern and northeastern portions of Area E ..."] Seems like it would be wise to exclude any cattle from the alluvial fan areas until such time as final restoration performance standards have been met.	Planting and seeding areas are not intended to be grazed until after native vegetation has been successfully established. Clarifying language has been added to Part I, Section 5.1 (Cattle Exclusion).	A	
103	CDFW, David Lawhead	Section 2.2.1		Don't see how you can claim cattle exclusion on Area E as an "enhancement" affect when there are no cattle there currently.	See response to comment #75	C	
104	CDFW, David Lawhead	Section 2.2.2		Review and update, as needed, vegetation map of Area E every 5 years	See response to comment #88	C	
105	CDFW, David Lawhead	Table 29a		[re: open water enhancement credits] What enhancement is there to open water since no cattle are currently on the Elizabeth Lake property? Seems like "preservation" is more appropriate.	See response to comment #75	C	
106	CDFW, David Lawhead	Table 29b		[re: bare ground CEQA credit] Bare Ground is not a CEQA credit.	See response to comment #73	C	
107	CDFW, David Lawhead	Figure 49.		This figure still incorrectly shows restoration-related credits in Lucky Canyon along the western boundary of Area E. Please remove these areas and confirm that these areas have not been included in credit calculations on the Development Plan and Exhibit F.	The credits shown along the western boundary of Area E in Lucky Canyon are enhancement credits not restoration. Post fire management as discussed in the Prospectus and subsequent IRT meetings is generating enhancement credits at Elizabeth lake.	A	
108	CDFW, David Lawhead	Figure 50		This figure still incorrectly shows restoration-related credits in Lucky Canyon along the western boundary of Area E. Please remove these areas and confirm that these areas have not been included in credit calculations on the Development Plan and Exhibit F.	See response to comment #107.	A	
109	CDFW, David Lawhead	Section 2.3.2		[re: sentence: "Rehabilitation will occur in areas immediately downstream or adjacent to the impounded areas that will be re-established. The nearby re-establishment will improve the hydrologic and sediment transport functions of the existing alluvial floodplains, thereby rehabilitating the currently degraded downstream alluvial floodplain."] Habitat upstream of the re-establishment area now classified as "rehabilitation" needs better justification of functional lift. Otherwise, classify as enhancement credit.	See response to comment #97	A	
110	CDFW, David Lawhead	Table 31		[re: Alluvial Floodplain Rehabilitation] Need better justification of functional lift to get rehabilitation credits versus enhancement credits.	See response to comment #97	A	
111	CDFW, David Lawhead	Table 32		[re: UPS #2 - "The mitigation retains or increases stream stability and does not cause site, upstream, or downstream excessive erosion or aggradation. Specifically: Overall channel form should not indicate a consistent trajectory indicating a transition from a multi-thread to a single thread channel form."] How will this be measured?	See response to comment #86	A	
112	CDFW, David Lawhead	Table 32		[re: UPS #28] 3-step Performance Standard versus 5-step credit release is messy.	See response to comment #87	A	
113	CDFW, David Lawhead	Section 3.3.2		[re: "...improve the functions of the existing alluvial floodplains immediately upstream of the pond."] Needs better justification for rehabilitation credits.	See response to comment #97	A	
114	CDFW, David Lawhead	Table 34		[re: alluvial floodplain rehabilitation] Needs better justification of functional lift to get rehabilitation credits versus enhancement credits.	See response to comment #97	A	
115	CDFW, David Lawhead	Table 35		[re: UPS #2] Same comment as for Frakes Canyon.	See response to comment #86	A	
116	CDFW, David Lawhead	Table 35		[re: UPS #28] Same comments as for Frakes Canyon.	See response to comment #87	A	
117	CDFW, David Lawhead	Table 39		[re: UPS #2] Same comment as for Frakes Canyon.	See response to comment #86	A	
118	CDFW, David Lawhead	Table 39		[re: UPS #28] Same comments as for Frakes Canyon.	See response to comment #87	A	

119	CDFW, David Lawhead	Table 43		[re: UPS #2] Same comment as for Frakes Canyon.	See response to comment #86	A	
120	CDFW, David Lawhead	Table 43		[re: UPS #28] Same comment as for Frakes Canyon.	See response to comment #87	A	
121	CDFW, David Lawhead	Section 6.0		[re: sentence: "Portions of Area F outside the restoration sites will be enhanced through post-fire monitoring and management and cattle exclusion."] Cattle are not on the site, so the benefit of removal is not available in calculating the credit values.	See response to comment #75	C	
122	CDFW, David Lawhead	Section 6.2.1		[re: sentence: "Post-fire monitoring and management and cattle exclusion ..." Again, since cattle are not present you can't assume habitat enhancement for this element.	See response to comment #75	C	
123	CDFW, David Lawhead	Section 6.2.2		Review and update, as needed, the vegetation map for Area F.	See response to comment #34	C	
124	CDFW, David Lawhead	Table 44		[re: open water enhancement credits] Need justification for enhancement versus preservation since there are no cattle on the site.	See response to comment #75	C	
125	CDFW, David Lawhead	Table 44		[re: bare ground CEQA credit] Bare Ground is not a CEQA credit since no native habitat is present.	See response to comment #73	C	
126	Lahontan RWQCB	General		Minor track changes	All minor track changes were accepted; any substantial changes were pulled out as separate comments and addressed individually.	A	
127	Lahontan RWQCB	Section 3.0		[re: "Regional Water Management Group (RWMG) 2007 showed an expected increase of development of 121 percent between 2005 and 2020."] The IRWMP was updated in 2013. The Development Plan should reference the most current IRWMP and cited data updated with respect to that specified in the 2013 IRWMP.	This statistic and reference have been updated to reflect the 2013 version of the IRWMP.	A	
128	Lahontan RWQCB	Table 7		[Re: Potential Porter-Cologne Re-Establishment Credits in the Bank Properties] Which of these overlap with those in Table 2?	A crosswalk table has been provided to illustrate how overlapping credits are tracked in the credit database.	A	
129	Lahontan RWQCB	Table 8		[re: Potential Porter-Cologne Preservation Credits in Bank Properties] Which of these overlap with Table 3?	See response to comment #128	A	
130	Lahontan RWQCB	Section 6.1.2.		[re: "...the alternative standard may be used by the Corps/Lahontan RWQCB to determine if and to what degree the restored habitats are meeting the performance standards."] And what is the alternative standard? Where is this described?	CRAM is the alternative standard to the UPS and vice versa. Both standards are described in these sections. Clarifying language has been added.	A	
131	Lahontan RWQCB	Section 2.1		[re: "The location of the Petersen Stream Restoration Site is depicted in Figure 19."] Where? It's not labeled.	It is labeled as Restoration Site 6. The Figure is revised to relabel it as "Petersen Stream Restoration Site."	B	
132	Lahontan RWQCB	Table 21b		[re:Porter-Cologne Credit Types]These credit #s are not consistent with those listed in Table 5 of Exhibit F1.1. Please revise for consistency and verify that Figure 29 only shows the available credit types in Area A.	The credit numbers have been corrected and are now consistent across all exhibits and figures	A	
133	Lahontan RWQCB	Table 24b		[re: Porter-Cologne Credits] These credit #s are not consistent with those listed in Tables 4 and 5 of Exhibit F1.1. Please revise for consistency and verify that Figure 44 only shows the available credit types in Area D.	See response to comment #33	A	
134	Lahontan RWQCB	Section 1.6.1		[Removed: "As such AAs #9 and #10 are suitable reference sites for re-established alluvial fan habitats at Aas #11 and #15."]	This change was not accepted as this sentence is important to the understanding of the respective paragraph. Additionally, no justification for its removal was provided.	C	
135	Lahontan RWQCB	Section 8.1		[re: sediment control and soil stabilization BMPs; Added: "...in accordance with a site-specific Storm Water Pollution Prevention Plan. The structural and non-structural BMPs may include:"]	This change was accepted.	A	
136	Lahontan RWQCB	Section 9.4.2		[Added: "The UPS are based on pre-fire vegetation data collected for the Elizabeth Lake Property in 2011 by WRA as part of the BRI surveys (WRA 2011). The percent cover and species richness, as shown in Table 11, were calculated using this pre-fire vegetation data as the target. The transects in the Petersen Ranch Property are located in similar vegetation alliances as Elizabeth Lake and therefore the targets are appropriate for all enhancement area transects."]	This change was accepted.	A	
137	Lahontan RWQCB	Table 11		[re: UPS #31; removed "co-dominant (>10% relative cover in any layer)"]	This change was accepted.	A	
CONSTRUCTION SECURITY (EXHIBIT C-2)							
138	CDFW, David Lawhead	1st paragraph, 2nd sentence		Include "Waters of the State" in the first paragraph, sentence #2.	This language has been added.	A	
INTERIM MANAGEMENT SECURITY (EXHIBIT D-1)							
139	CDFW, David Lawhead	General		There is a difference in interpretation between myself and Army Corps counsel regarding what management tasks should be covered by the Interim Management Security. The Army Corps will require that all management and monitoring tasks associated with the bank restorations also be included in the Interim Management Security calculation. This is in contradiction to my earlier request to remove these items from the security calculations as they are covered by the Performance Security. So, you will need to re-instate the original calculations and include restoration management costs in your estimate of overall costs.	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	C	
ENDOWMENT AGREEMENT (EXHIBIT D-3)							
140	CDFW, David Lawhead	Section 4/Funding		In the first paragraph it indicates that \$2,636,075 is the principal amount that the Bank Sponsor is providing to fund the long-term management endowment. However, I believe that this number is in error, at least according to the calculations in Exhibit D-2. The amount of endowment funding provided by SCE for the mitigation parcel will be folded into the management dollars for all of Parcel A. However, the amount that the Bank Sponsor is providing is the dollars to manage the remainder of Parcel A, plus Parcel E (\$1,630,317 + \$510,799), for a total of \$2,141,906.	Table 1 in Exhibit D-2 shows that the endowment costs for Area A are Ex. 4 CBI and that the endowment costs for Area E are Ex. 4 CBI . These two areas compose the first phase of the bank. The sum of these amounts equals Ex. 4 CBI and thus there is no error in the calculation. SCE is indeed paying the Bank Sponsor Ex. 4 CBI towards the endowment of Area A, but the endowment will be collectively paid for by the Bank Sponsor and collectively utilized for the management and maintenance of all of Areas A and E.	A	
141	CDFW, David Lawhead	Section 4/Funding		I believe that the Army Corps will require that two endowment agreements be created, one for long-term management endowment, and the second for conservation easement monitoring.	This is not required by the Corps.	A	
LONG-TERM MANAGEMENT PLAN (EXHIBIT D-5)							
142	CDFW, David Lawhead	Section 3.1.7		LADWP may only be able to use wetlands created on their property if they are willing to meet other conditions of mitigation, such as placing a conservation easement on the site, long-term management, and funding for management.	This comment has been noted.	D	

143	CDFW, David Lawhead	Task 4.4.1		Still waiting for clarification as to whether all areas of the bank property can be adequately surveyed for noxious weeds solely from roads, or whether certain areas may require foot surveys. Please address.	This issue was addressed in response to comment #196 in the 8-17-14 Comment Matrix. Comment #196 8-17-2014: "The Corps maintains the previously provided CDFW Comment: "Is there sufficient road access throughout the bank property that road surveys alone will allow for detection of noxious weed infestations? Will certain areas need to be checked on foot to assure for an adequate survey?" Response to comment #196: "he majority of weed infestations are located in disturbed areas surrounding roads or in the man-made ponds currently on the property. These are easily accessible by road or by a short walk from the road. These surveys will be a combination of drive-through and on-foot surveys, but will be much less extensive than other monitoring efforts. If weeds are encountered as part of other monitoring efforts, they will be mapped as-encountered. Certain areas will be checked on foot. But, due to budget constraints and the size of the property, it is not feasibly to traverse the entire property on foot every year. Therefore, target areas and known infestations will be surveyed and additional populations encountered during other surveys will be noted. "	A	
144	CDFW, David Lawhead	Section 4.5/Vegetation Management		A fifth task should be added to this section that evaluates the impact of cattle on habitats immediately surrounding cattle water sources, salt licks, or other cattle attractants where the intense use by cattle could degrade habitat lands given mitigation credit. Credits may need to be reduced if cattle impacts degrade credited habitat areas.	In comment #42 in the 8-17-14 Comment Matrix it was explained that the expected impacts to creditable habitats surrounding cattle water sources will be minimal. Comment #42 8-17-14: "Cattle rotation, appropriate stocking rates, and management of water sources will be used to limit impacts to upland and aquatic habitats. These minimization measures are discussed in detail in the Grazing Plan (Appendix B of the LTMP) and are expected to manage cattle in such a way that they cause little to no effect on the creditable resources in the Bank Properties. Additionally, areas surrounding watering locations will still function as annual grassland and will provide foraging habitat for Swainson's hawk and tricolor blackbird. The watering troughs themselves are negligible in size. Therefore, the impacts are not expected to reduce the creditability of the resources surrounding the watering areas." Also, our annual monitoring tasks included in the LTMP include assessing habitat quality, erosion, and invasive species in all covered habitats and for all covered species. We feel this monitoring is sufficient to detect any negative changes in habitat quality to the lands surrounding cattle water sources, and thus this additional proposed task is unnecessary.	C	
145	CDFW, David Lawhead	Section 9.2/Replacement		It should be remembered that the Property Owner is the party responsible for land management. If that duty is delegated to another contracted party (Land Manager) that is fine, but the Property Owner bears the ultimate responsibility for any management failures.	Section VIII: Operation of the Bank, Part C.2 of the BEI, clearly states that the property owner is ultimately responsible for the management of the Bank.	A	
146	CDFW, David Lawhead	Appendix B/ Grazing Plan, pg. 3, 2nd paragraph		Grazing is not currently proposed to be excluded from alluvial floodway restoration sites on the Elizabeth Lake property. I think it would make sense to avoid putting cattle on the Elizabeth Lake property, or at least excluding them from the alluvial fan areas, until final restoration performance standards are met. Is the Bank Sponsor willing to commit to this? If so, please include in the Grazing Plan and Development Plan. I think this temporary exclusion will enable the Performance Standards to potentially be met more quickly.	See response to comment #102	A	
147	CDFW, David Lawhead	Appendix B/ Grazing Plan		[re: maintaining habitat for tri-colored blackbird] The California Fish and Game Commission voted not to permanently list the TCB as State-threatened, so it currently has no listing status.	Language describing tricolored blackbird as State-threatened has been changed.	A	
148	CDFW, David Lawhead	Appendix B/ Grazing Plan, Figure 1		Figure 1 shows several "blue dots" indicating water sources inside of the cattle exclusion areas on Peterson Ranch. Please clarify if this is an error, or not. Cattle water sources should obviously not be within cattle exclusion zones. As mentioned in an earlier comment, areas around cattle water sources need to be monitored for habitat degradation annually, and management actions take to address any significant degradation.	The blue dots within cattle exclusion areas are water sources that will have their water piped to a trough outside the cattle exclusion zones. The pipelines are represented as blue lines in Figure 1.	A	

149	CDFW, David Lawhead	Appendix C/Hunting Info		<p>Definition of a non-game species is incorrect. The information below is from the California Code of Regulations, Title 14: <i>Except as otherwise provided in Sections 478 and 485 and subsections (a) through (d) below, nongame birds and mammals may not be taken.</i></p> <p><i>(a) The following nongame birds and mammals may be taken at any time of the year and in any number except as prohibited in Chapter 6: English sparrow, starling, coyote, weasels, skunks, opossum, moles and rodents (excluding tree and flying squirrels, and those listed as furbearers, endangered or threatened species).</i></p> <p><i>(b) Fallow, sambar, sika, and axis deer may be taken only concurrently with the general deer season.</i></p> <p><i>(c) Aoudad, mouflon, tahr, and feral goats may be taken all year.</i></p> <p><i>(d) American crows (Corvus brachyrhynchos)</i></p> <p><i>(1) May be taken only under the provisions of Section 485 and by landowners or tenants, or by persons authorized in writing by such landowners or tenants, when American crows are committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance. Persons authorized by landowners or tenants to take American crows shall keep such written authorization in their possession when taking, transporting or possessing American crows. American crows may be taken only on the lands where depredations are occurring or where they constitute a health hazard or nuisance. If required by Federal regulations, landowners or tenants shall obtain a Federal migratory bird depredation permit before taking any American crows or authorizing any other person to take them. (2) American crows may be taken under the provisions of this subsection only by firearm, bow and arrow, falconry or by toxicants by the Department of Food and Agriculture for the specific purpose of taking depredating crows. Toxicants can be used for taking crows only under the supervision of employees or officers of the Department of Food and Agriculture or federal or county pest control officers or employees acting in their official capacities and possessing a qualified applicator certificate issued pursuant to sections 14151-14155 of the Food and Agriculture Code. Such toxicants must be applied according to their label requirements developed pursuant to sections 6151-6301, Title 3, California Code of Regulations.</i></p> <p><i>(e) Pursuant to Fish and Game Code Section 2003, it is unlawful to offer any prize or other inducement as a reward for the taking of nongame mammals in an individual contest, tournament, or derby.</i></p> <p><i>Amendment filed 1/30/15; effective 4/1/15.</i></p> <p>These regulations were set by the CA Fish and Game Commission.</p>	The definition of "non-game species" has been changed based on the provided legislative guidance.	A	
150	CDFW, David Lawhead	Appendix C/Hunting Info		Game Hunting Within the Bank. Restore the original wording used in this section, as this wording was agreed to by CDFW for the SCE mitigation parcel. This same correction should be included in the Phase I Conservation Easements.	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	C	
151	CDFW, David Lawhead	Appendix C/Hunting Info		The deer species present is actually "mule deer" not "black-tailed deer."	This species has been changed.	A	
REAL ESTATE (EXHIBIT E)							
152	USACE, Shannon Pankratz	Exhibit E-1.1		A current title report will be needed.	This comment has been noted, and a current title report has been ordered and will be submitted separately.	B	
153	CDFW, David Lawhead	Exhibit E-4.2 Section 2d		[Re: mineral, air, and water rights; Removed word] "reasonably"	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
154	CDFW, David Lawhead	Exhibit E-4.2 Section 2e		[re: present and future development rights] Restore original wording.	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
155	CDFW, David Lawhead	Exhibit E-4.2 Section 3e		[re: commercial, industrial, or residential uses] Restore original CE wording.	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
156	CDFW, David Lawhead	Exhibit E-4.2 Section 3j		[re: filling, dumping, excavating, etc.] Restore original CE wording.	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
157	CDFW, David Lawhead	Exhibit E-4.2 Section 3n		[re: water rights] Restore original CE language.	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
158	CDFW, David Lawhead	Exhibit E-4.2 Section 3o		[re: engaging in unlawful activities or those that are detrimental to Conservation Values] Restore original CE language.	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
159	CDFW, David Lawhead	Exhibit E-4.2 Section 6a		[re: hunting rights] Use this language, as was agreed to by CDFW in the CSE CE document.	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
160	CDFW, David Lawhead	Exhibit E-4.2 Section 7a		[re: costs of enforcement] Use the original template CE language as shown.	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
161	CDFW, David Lawhead	Exhibit E-4.2 Section 7c		[re: acts beyond grantor's control] Restore original CE language	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
162	CDFW, David Lawhead	Exhibit E-4.2 Section 9b-1		[re: hold harmless] Use original CE language	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
163	CDFW, David Lawhead	Exhibit E-4.2 Section 9b-2		[re: hold harmless] Use original CE language as shown	Resolution pending; Braiden Chadwick to discuss with CDFW legal counsel	B	
CREDIT EVALUATION (EXHIBIT F-1)							
164	USACE, Shannon Pankratz	pg. 2		Strike out language stating 404 credits can be used/sold outside of the primary/secondary/tertiary service areas;	This language has been removed from the BEI and understand that this may be allowed on a case by case basis in the future.	A	
165	USACE, Shannon Pankratz	pg. 2		Should refer to Appendix A as a guide (softer language), not as a directive. Revise as: "The Mitigation Ratio Setting Checklist for both Re-establishment and Preservation Credits is included as Appendix A, and should be used ***as a guide*** to find the appropriate mitigation ratio when purchasing credits from the Bank";	This language has been added.	A	
166	USACE, Shannon Pankratz	Section 3.0		Page 9, Section 3.0, should be re-phrased as uniform re-establishment credits and preservation-only credits applying to Phase 1.	The terms "Uniform Re-establishment Credit" and "Preservation-only Credit" are now used consistently throughout Exhibit F.	A	
167	USACE, Shannon Pankratz	Section 3.0		Is a CE not intended for Phase 1 to include Area C, which only has 404 preservation credits?	No, Phase 1 only includes Areas A and E	A	
168	USACE, Shannon Pankratz	General		For greater clarity, should consistently use the term "uniform re-establishment credits" throughout;	The terms "Uniform Re-establishment Credit" and "Preservation-only Credit" are now used consistently throughout Exhibit F.	A	

169	USACE, Shannon Pankratz	Appendix A		Revise the paragraph above “aquatic resource re-establishment credits” as follows: “To determine the appropriate mitigation ratio when authorizing use of credits from the Bank, the Corps project manager will use the most current version of the mitigation ratio setting checklist, checklist instructions, and other related documents as described in the Corps <i>12501-SPD Regulatory Program Standard Operating Procedure for the Determination of Mitigation Ratios</i> . When applying the checklist the following modifiers should be used as a guide to determine the appropriate mitigation ratio when purchasing credits from the Bank.”;	As discussed in IRT meeting on April 14 2015 and May 4, 2015, the current mitigation ratio setting checklist will be grandfathered in as part of the BEI. Therefore, we do not agree with this change as the design and crediting methodology for the Bank has been negotiated with the IRT based on the current policies, future policy changes could effect the bank's credits in ways that hinder credit saes. In response to the Corps' request for examples of other projects that grandfathered in assessment methods or checklists: In the Galveston Corps District, in which the SOP for calculating credits/debits changed, the Katy-Cypress Mitigation Bank was allowed to continue using the older assessment method. This was explicitly written into the bank's BEI. Additionally, the Greens Bayou Mitigation Bank, which is also in the Galveston Corps district, included language in their BEI indicating that future debit assessment would be calculated with the assessment method in place at the time of the bank's entitlement. We feel this evidence shows precedence for the grandfathering of credit/debit assessment methods in Corps districts with established SOPs, and as such, we are advocating for maintaining the current Credit Evaluation language.	C	
170	USACE, Shannon Pankratz	Appendix A, re-establishment credit section		For Step 2/3, revise to: “..to low functioning urbanized aquatic resources..”;	This change has been made.	A	
171	USACE, Shannon Pankratz	Appendix A, re-establishment credit section		For Step 6 (in this section and throughout Appendix A), replace “pristine” with “high functioning”. Replace “large” with “substantial”;	These changes have been made.	A	
172	USACE, Shannon Pankratz	Appendix A, re-establishment credit section		For Step 9, revise as: “For impacts to relatively low-functioning aquatic resources, mitigation ratios for “Re-establishment” credits purchased at the bank will generally fall between 0.25:1 to 1.5:1; based on the adjustments applied in steps 2-8. If the permittee purchasing credits from the Bank does not complete an FCAM, a minimum of 1:1 mitigation ratio would be applied.”;	This change has been made.	A	
173	USACE, Shannon Pankratz	Appendix A, Aquatic Resource Preservation Credits section		For Step 2/3, delete the last sentence.	The Mitigation Ratio-Setting Checklist Guidelines explicitly state “Adjustments for preservation-only mitigation, which provides no functional gain, should generally fall towards the high end of the range (towards 3-4)”. We have followed this guidance and provided sufficient justification to support our assigned score for this step. Removing the score entirely we feel diminishes the purpose and value of the Mitigation Ratio-Setting Checklist.	C	
174	USACE, Shannon Pankratz	Appendix A, Aquatic Resource Preservation Credits section		For Step 6, we also do not agree on the suggested ratio adjustment. Remove language listing a specific range.	We have followed all guidance provided in The Mitigation Ratio-Setting Checklist Guidelines and provided sufficient justification to support our assigned score range. In addition, this language was deemed appropriate for step 6 in the “Aquatic Resource Re-establishment Credits” section, and step 6 does not state any scoring difference that should be applied to preservation-only credits. Removing the score entirely we feel diminishes the purpose and value of the Mitigation Ratio-Setting Checklist.	C	
175	USACE, Shannon Pankratz	Appendix A, Aquatic Resource Preservation Credits section		For Step 9, also remove language listing the specific range, rephrase as just a summation of the above steps.	It was deemed appropriate to sum the scores for the “Aquatic Resource Re-establishment Credits” section, and thus we feel the same logic and justification should hold for this section.	C	
176	USACE, Shannon Pankratz	Appendix A, Riparian/Upland Buffer Preservation Credit section		Same comments for these sections, as for the “aquatic resource Preservation credits section”.	See responses to comments #173-175	A	
177	CDFW, David Lawhead	Table 3/1600 credits		There needs to be a clear justification for categorizing “Open Water” credits as “enhanced” versus “preserved” on Areas E and F on the Elizabeth Lake property where no cattle are present. Without a better justification, CDFW would consider Open Water habitat on these two areas to be “preservation.” The same issue also applies to the freshwater marsh habitat around the fringe of Elizabeth Lake categorized as “Freshwater Marsh Enhanced.” What additional functional lift is being provided that wouldn't also be provided to preserved habitat. These areas should be considered “preserved” and not “enhanced” for 1600 credits. Figure F-1.3.3 needs to be adjusted to reflect the change in credit categories.	See response to comment #75	C	
178	CDFW, David Lawhead	Table 6/CEQA credits		CDFW does not consider “Bare Ground” or “Non-native Woodland” to be CEQA credits, and these two credit types should be removed from the table. If these areas are restored to native habitats than credits can be assigned at a later time. Figures F-1.3.5 and F-1.3.6 both need to be adjusted to show that Bare Ground and Non-native Woodlands are not CEQA credits.	See responses to comments #75	C	
179	Lahontan RWQCB	General		All track changes	All track changes were minor/non-substantial content changes. And thus have all been accepted.	A	
180	Lahontan RWQCB	Section 2.3		[re: Available Porter-Cologne credits are shown in Tablse 4 and 5] Which credits overlap with 404? Would be good to clearly identify those that are also 404 mitigation credits.	See response to comment #128	A	
181	Lahontan RWQCB	Table 4		Areas A, B, C, D are missing from the credit figures in exhibit F-1.3 and need to be added.	The credit figures in exhibit F-1.3 are updated to include Area labels.	B	
182	Lahontan RWQCB	Table 5		[re: Ephemeral stream upland buffer credits in area D] This # seems way high compared to Exhibit F-1.3.9 and Figure 44.	Ephemeral stream upland butter credit numbers are correct in Table 5 of Exhibit F-1.1, in Exhibit F-1.3.9, and in Figure 44 of the Development Plan. Table 5 and Figure 44 both show 201.7 credits for Area D. Exhibit F-1.3.9 shows the total ephemeral stream upland buffer credits for the entire Petersen Ranch property, which is 449.19 credits. As shown in that exhibit, nearly half of the ephemeral stream upland buffer credits are within Area D.	C	

CREDIT RELEASE SCHEDULE (EXHIBIT F-2)							
183	Lahontan RWQCB	General		All track changes	All track changes were minor/non-substantial content changes. And thus have all been accepted.	A	
184	Lahontan RWQCB	Table 1		[re: use of term "State Waters (Porter Cologne)"] Suggest global change to be consistent with BEI language.	See response to comment #22. Change not made.	C	
CREDIT SALES AGREEMENT (EXHIBIT F-3)							
185	Lahontan RWQCB	General		Track changes	All track changes were minor/non-substantial content changes. And thus have all been accepted.	A	
CREDIT LEDGER (EXHIBIT F-4)							
186	CDFW, David Lawhead	General		The ledger needs to have rows or columns showing total number of credits in the bank, number of credits of each type currently released for sale, and how many released credits of each type remain available. I need to be able to discern easily if sufficient credits are available at the bank for a particular project at a particular time.	A separate CDFW credit ledger has been created that includes these column headings	A	